

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO**

ROCKY BRANDS, INC., et al.,)	
)	Judge Watson
Plaintiffs,)	
)	Magistrate Judge King
v.)	
)	Case No. C2 06 275
RED WING SHOE COMPANY, INC.,)	
et al.,)	
)	
Defendants.)	

**DEFENDANTS' MOTION TO EXCLUDE REPORT OF PLAINTIFF'S EXPERT THE
MANTIS GROUP, INC.**

Pursuant to this Court's standing order on Case Management Procedures, which requires that Daubert motions be filed at least forty-two (42) days prior to the Final Pretrial Conference, Defendants filed their Daubert Motion to Exclude the Report of Plaintiff's Expert The Mantis Group, Inc. pursuant to Fed. R. Evid. 702 on November 13, 2009 [Dkt. #132]. According to this Court's Case Management Procedures, Plaintiff's Response to the Daubert Motion was due on November 24, 2009 (not later than thirty-five (35) days prior to the Final Pretrial Conference). If the response date is calculated pursuant to L.R. 7.2(a)(2), Plaintiff's Response would have been due on December 4, 2009.

No reply to Defendant's Daubert Motion has been filed as of this date.

Therefore, the Motion being unopposed, Defendants request that the Court enter an Order excluding in its entirety the Report of Plaintiff's expert The Mantis Group, Inc. as well as any and all testimony or evidence related thereto. A Proposed Order is attached.

Respectfully submitted,

/s/ Joseph R. Dreitler

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CERTIFICATE OF SERVICE

The foregoing document was filed and served this 7th day of December 2009, upon all counsel of record via the Court's ECF filing system.

/s/ Joseph R. Dreitler _____
Joseph R. Dreitler